

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

TODD R. INGRAM

Claimant

VS.

FLOYD MECHANICAL CORPORATION

Respondent

AND

CONTINENTAL WESTERN INSURANCE CO.

Insurance Carrier

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Docket No. 1,013,474

ORDER

Respondent and its insurance carrier appealed the April 14, 2005, preliminary hearing Order entered by Administrative Law Judge John D. Clark.

ISSUES

On May 30, 2003, claimant injured his left knee and left leg while working for the respondent. Within days of the accident, claimant developed an infection in the area of his injury. In the April 14, 2005, Order, Judge Clark determined the infection was directly related to the May 30, 2003, accident and resulting injury. Consequently, the Judge ordered respondent and its insurance carrier to pay both the medical expense associated with treating the infection and temporary total disability benefits.

Respondent and its insurance carrier contend Judge Clark erred. They argue they should not be responsible for any disability or medical expense arising from the infection as it allegedly has no relationship to the May 30, 2003, accident. Accordingly, they request the Board to reverse the April 14, 2005, Order.

Conversely, claimant contends the April 14, 2005, Order should be affirmed. Claimant argues the infection is directly related to his work-related injury as it resulted due to the hematoma caused by his May 30, 2003, accident.

The only issue before the Board on this appeal is whether the infection in claimant's left leg is a direct or natural consequence of an accident that arose out of and in the course of employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date and the parties' arguments, the Board finds and concludes:

The April 14, 2005, preliminary hearing Order should be affirmed. The Board concludes the infection in claimant's left leg is a direct and natural consequence of his May 30, 2003, left knee injury. The medical evidence is overwhelming that the infection in claimant's leg is related to the injury he sustained while working for respondent.

On December 16, 2003, claimant's surgeon, Dr. Naomi N. Shields, wrote:

I do not have the origin of the methicillin-resistant *Staphylococcus aureus*. I do not doubt, however, that if he had not had the injury on the 30th of May creating the hematoma he would not have had a nidus or bed for the methicillin-resistant *Staphylococcus aureus* to begin its destructive action. His black widow spider bite that you referred to was actually of his right elbow. This had been treated with an antibiotic for a week to 10 days prior and did not have any evidence of localized abscess or lymphangitis. He had had a previous tattoo several weeks earlier as well which showed no evidence of infection. Therefore, we have no evidence that the methicillin-resistant *Staphylococcus aureus* came from either one of those sites.¹

And on February 9, 2004, Dr. Hewitt C. Goodpasture, who specializes in infectious diseases, wrote:

The above sequence of events suggests that the patient had a spider bite which probably served as a nidus for the staphylococcal bacteria to enter his bloodstream. The germs seeded the injured area of soft tissue just above and medial to the left knee, which then resulted in the extensive infection that the patient experienced. The reason the soft tissue and muscle seeded in that particular location was due to the previous injury that had been sustained when he jumped out of the bed of the truck, twisting the knee. In the absence of the work related injury, this serious infection would not have developed.²

Finally, the doctor hired on behalf of respondent and its insurance carrier for purposes of this claim, Dr. Roger W. Hood, on November 20, 2003, wrote in part:

¹ P.H. Trans., Cl. Ex. 1.

² *Id.*

The organisms probably spread through his blood stream and then leaked out into the area of swelling in his distal thigh and the infection got a raging head start from there. His current medial *[sic]* status is not, in my opinion, related to his work injury of May 30, 2003. I think the most likely cause of the Necrotizing fascitis is the black widow spider bite.³

The Board concludes the infection is a complication of claimant's work-related injury. Whether the bacteria that caused the infection entered claimant's body through a spider bite or in some other manner is not relevant. These facts establish the infection is a direct and natural consequence of the injury and, therefore, claimant is entitled to workers compensation benefits to treat that infection and for the resulting disability.

Disability or death caused by infection or other condition that results from a compensable accident or injury is likewise compensable.⁴

When a primary injury under the workmen's compensation act is shown to have arisen out of the course of employment every natural consequence that flows from the injury, including a new and distinct injury, is compensable if it is a direct and natural result of a primary injury.⁵

No standard of health is prescribed by the Act, and the worker is taken in his condition at the time of the alleged accident.⁶

WHEREFORE, the Board affirms the April 14, 2005, Order entered by Judge Clark.

IT IS SO ORDERED.

Dated this ____ day of August, 2005.

BOARD MEMBER

³ *Id.*, Resp. Ex. 1.

⁴ See *Drake v. State Department of Social Welfare*, 210 Kan. 197, 499 P.2d 532 (1972); *Strasser v. Jones*, 186 Kan. 507, 350 P.2d 779 (1960).

⁵ *Chinn v. Gay & Taylor, Inc.*, 219 Kan. 196, Syl. ¶ 1, 547 P.2d 751 (1976).

⁶ *Strasser v. Jones*, 186 Kan. 507, 350 P.2d 779 (1960).

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John D. Clark, Administrative Law Judge
Paula S. Greathouse, Workers Compensation Director